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SUBJECT: KAZAKHSTAN: CUSTOMS OFFICIALS PREPARE FOR CUSTOMS UNION

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11. (U) Sensitive but unclassified. Not for public Internet.

12. (SBU) SUMMARY: On November 4, Kazakhstani Deputy Chairman of the Customs Control Committee of the Ministry of Finance Serzhan Duisebayev told EconOff that the government will likely approve several long-anticipated amendments to the current Kazakhstani Customs Code by the end of November, including ex-officio powers for customs agents to seize counterfeit goods at the border. Duisebayev also explained the implementation timeline and administrative structure of the Russia, Belarus, Kazakhstan (RBK) Customs Union, which includes the abolition of all internal borders as of July 1, 2011, a Moscow-based headquarters, and enhanced border cooperation with Russia. Kazakhstani customs officials continue to demonstrate their commitment to progressive customs procedures, as evidenced by the impending amendments to the current Customs Code. Whether they can do so or not in the RBK Customs Union remains to be seen. END SUMMARY

13. (SBU) During a November 4 meeting with EconOff, Deputy Chairman of the Customs Control Committee of the Ministry of Finance of the Republic of Kazakhstan Serzhan Duisebayev asserted that the Presidents of Russia, Belarus, and Kazakhstan will meet November 27 in Minsk to sign the underlying technical agreements that will establish the Customs Union's legal foundation. These agreements include a common customs code and unified customs tariff. Officially, he said, the Customs Union will be launched as of January 1, 2010, but the unified customs code and customs tariffs will become active July 1, 2010. On July 1, 2011, the three member states will abolish internal borders, having established a unified broad-spectrum regime of customs tariffs, taxes, internal administration, and governing legislation. Duisebayev stressed the continued validity of all bilateral and international tariff treaties -- the much anticipated new unified tariff will not impact previously negotiated and ratified treaties. According to Duisebayev, Ministry of Industry and Trade officials have reported the successful negotiation of 95% of tariffs.

ADMINISTRATIVE STRUCTURE TAKING FORM

14. (SBU) Duisebayev asserted that the Customs Union's administrative structure is also rapidly taking form. Currently based at the Eurasian Economic Union building in Moscow, Duisebayev said that the administration will eventually move into a new complex in Moscow. According to current plans, a Customs Union Commission will be the "tri-party nerve center" of decision-making. A Secretariat, also based in Moscow, will support the Commission. Proportional representation from each member state will staff the Secretariat's numerous departments. (COMMENT: If "proportional" means by population, Russia will hugely dominate. END COMMENT.)

CONCERNS SAID TO BE LARGELY PRACTICAL

15. (SBU) Duisebayev told EconOff that a non-tariff agreement will specifically exclude protective and anti-dumping measures. No single member state will be able to introduce trade bans without the support of the other members, he said. In the future, only the Customs Union Commission will have the authority to introduce or lift trade restrictions. (COMMENT: While practical in theory, each country will have a proportionally different number of votes in the Commission, allowing significant political influence into the process. END COMMENT.)

16. (SBU) Duisebayev highlighted the many pending practical issues. Member states are negotiating unified tariffs, but the Secretariat and the Commission later will determine the mechanism for the distribution of customs fees and relevant taxes collected at the point of entry. According to Duisebayev, Customs Union agreements will not impact existing legislation and accords unless specifically addressed and negotiated by the Commission. As a result, Duisebayev pointed to varied Value Added Tax (VAT) rates as a potential area of

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conflict. In his opinion, some businesses might prefer Kazakhstani points of entry, because its VAT (12%) is lower than Russia's (18%).

AMENDMENTS EXPECTED TO CURRENT CUSTOMS CODE

17. (SBU) According to Duisebayev, Kazakhstan has indefinitely suspended further development of Kazakhstan's new Customs Code, on which officials had been working diligently in order to meet WTO standards. Nonetheless, Parliament and the President are expected to approve several long-anticipated amendments to the existing code by the end of November. These amendments will contain declaration rights for foreign citizens, ex-officio rights for customs agents to seize counterfeit goods at the border, and standardized guidelines for the valuation of goods.
CUSTOMS UNION'S CUSTOMS CODE

18. (SBU) The current draft of the Customs Union's customs code contains eight sections, 50 chapters, and 373 articles. Its 286 references (grandfathered provisions from each member state) include 48 references to international treaties, 56 references to the decision of the Custom Union Commission, and 182 references to national legislation. Duisebayev proudly highlighted the success of Kazakhstani negotiators in integrating about 50% of Kazakhstan's current customs norms into the new customs code. However, he acknowledged that Kazakhstan still had to compromise on some of its more progressive customs policies. Duisebayev described existing customs legislation as "uneven," with trade more liberalized in Kazakhstan than in Russia. "Now, they would like to come up with something in the middle; not as liberal as in Kazakhstan, and not as conservative as in Russia. Russia was also very surprised to see private businesses taking part in discussions of new (customs) legislation in Kazakhstan," Duisebayev asserted.

EXPERIMENTAL BORDER COOPERATION

19. (SBU) The Deputy Head of the Customs Control Organization Department at the Customs Control Committee, Dauren Tulemissov, described Kazakhstani and Russian authorities' joint, "experimental" operations at 15 points of entry along their border. He explained the role of the importing country to manage customs procedure, while

the exporting country has no influence at these test sites. Tulemissov termed implementation of this procedure difficult due to the reluctance of both countries' authorities to relinquish control over exports.

¶10. (SBU) COMMENT: Working-level officials throughout the Kazakhstani government continue to grapple with the technical implementation of the highly politicized RBK Customs Union, even while providing positive spin to outside interlocutors. Because the decision to create the Customs Union was political, the expert-level bureaucrats are now obligated to try to make it work, even if it means Kazakhstan will have to cede some of its progressive legislation of the last decade. Those on the front lines, the Kazakhstani Customs Agents, hope that the representational nature of the proposed governing structure will protect their sovereign interests. However, their ability to influence policy of a Customs Union headquartered in Moscow, and likely dominated by proportionately larger Russian interest groups, remains to be seen. Meanwhile, Kazakhstani customs officials continue to demonstrate their commitment to progressive customs procedures, as evidenced by the impending amendments to the current Customs Code. Whether they can do so or not in the RBK Customs Union remains to be seen. END COMMENT.

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